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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,651	12/17/2001	Francis D. Palazzo	4665/6	1856
26291	7590	12/16/2004	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			TRAN, HAI V	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,651

Applicant(s)

PALAZZO ET AL.

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/6/04; 8/17/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 are rejected under 35 U.S.C. 103(a) as being unpatentable over

"Personalized EPG using User Preference Metadata" (Akkaya et al., Features No. 6, Spring 2001) in view of TV gets Personal (Oliphant et al., September 2001).

Claim 1, Akkaya discloses a data structure stored on computer readable media (metadata is a database independent and is stored at local receiver; page 2, Fig. 1).

As to "the data structure comprising: one or more data tags; one or more electronic program guide action tags, each electronic program guide action tag used to define a valid electronic program guide feature that may be accessed."

"Personalized EPG using User Preference Metadata" Akkaya discloses on the basis of TV-anytime system and other standardizations on metadata, a consumer able to create or personalized his/her data structure of an EPG using his/her preference for choosing which content (i.e., type of commercials or TV programs), he wants from a variety of sources (service /content providers), but also from whom he obtains it, and on what terms (see page 2-3; page 10, sect. 3.2 and page 12, sect. 3.4). In doing so, Akkaya further discloses this data structure is done by standard XML schema

languages for implementation, as shown in Fig. 2 with its XML:base Attribute that includes data tags, program guide action tags, each electronic program guide action tag used to define a valid electronic program guide feature that may be accessed.

Akkaya further discloses each data tag, according to XML:base Attribute, used to provide information regarding a broadcast advertisement; the data structure operative to provide a link between the broadcast advertisement, and an electronic program guide to provide access to electronic program guide features defined by the electronic program guide action tags from within the broadcast advertisement and each electronic program guide action tag used to define a valid electronic program guide feature that may be accessed from within the broadcast advertisement (page 3, section b "hierarchical preference" and "Hard/soft filtering").

Oliphant discloses each data tag used to provide information regarding a broadcast advertisement; the data structure operative to provide a link between the broadcast advertisement, and an electronic program guide to provide access to electronic program guide features defined by the electronic program guide action tags from within the broadcast advertisement and each electronic program guide action tag used to define a valid electronic program guide feature that may be accessed from within the broadcast advertisement (Fig. 2-4; page 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akkaya with Oliphant, so to provide to users a tool to become their own TV boss to picks programs/commercials to suit their tastes. Moreover,

they can always be certain there is something worth watching and never again need users be trapped by the taste of channel controllers and schedulers (page 13).

Claim 2, as to "wherein the data structure is formatted for broadcast in combination with the broadcast advertisement to one or more set top terminals", this limitation is inherently met by Akkaya, see Fig. 1, page 2.

Claim 3, limitation "wherein each of the one or more electronic program guide action tags are marked by an opening and a closing tag, the opening and closing tag operative to define a data type for each of the one or more electronic programming action tags" is inherently met by the well known "standard XML schema languages" disclosed by Akkaya as discussed in claim 1.

Claim 4, " wherein the opening and closing tag enclose the valid electronic program guide feature in order to delimit the valid electronic program guide feature from another valid electronic program guide feature." Is further met by Akkaya because it is an inherently well-known feature of the standard XML:base Attribute, as discussed in claim 1.

Claim 5, Akkaya further discloses wherein the valid electronic program guide feature comprises an electronic program guide action parameter of a data type corresponding to the opening and closing tag (see Fig. 2, page 2).

Claim 6, "wherein the electronic program guide action parameter comprises a location to store the broadcast advertisement" is met by Akkaya because Akkaya suggest that desired content (i.e., interested broadcast advertisement) to be recorded on the permanent or removable storage; Fig. 1 pages 2-3;

Claim 7, "wherein the electronic program guide action parameter comprises a local location to store the broadcast advertisement" is met by Akkaya because Akkaya suggest that desired content (i.e., interested broadcast advertisement) to be recorded locally on the receiver on the permanent or removable storage; Fig. 1 pages 2-3.

Claim 8, "wherein the electronic program guide action parameter comprises a remote location to store the broadcast advertisement" is further met by Akkaya because broadcast advertisement is downloaded/broadcasted from the "Providers" see Fig. 1 page 1-3.

Claim 17, "wherein the one or more data tags comprises a unique advertisement identifier" is further met by Akkaya because Akkaya's advertisement must have a unique identifier so that user could program his/her system to personalize his/her commercial preferences, as suggested (page 3).

Claim 18, "wherein the identifier comprises a key to locate additional program information from a set of guide data" is further met by Akkaya, For example, if the user interested in golf, thus "golf" is a key for the system to located additional program information from the set of received guide data (page 3, section b).

Claim 19, "wherein the one or more data tags comprises a unique product identifier" is further met by Akkaya because Akkaya shows still images in Fig. 2 to represent a unique product identifier.

Claim 20 wherein the identifier composes a key (i.e., specific "still image"/icon) to locate additional program information from a set of guide data is further met by Akkaya because specific "still image"/icon of Fig 2 is a key that corresponds to a program that contain additional program information from a program set, page 2.

2. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Personalized EPG using User Preference Metadata" (Akkaya et al., Features No. 6, Spring 2001) in view of TV gets Personal (Oliphant et al., September 2001) and further in view of Brown et al. (US 6678733).

Claims 9_5-12, Akkaya in view of Oliphant do not clearly disclose wherein the electronic program guide action parameter comprises pay-per-view purchase

information, information to set a future reminder for a program, a network address wherein the network address is an Internet address.

Brown discloses wherein the electronic program guide action parameter comprises pay-per-view purchase information (Col. 18, lines 30-50), information to set a future reminder for a program (Col. 23, lines 5-30), a network address (Col. 15, lines 60-Col. 16, lines 10) wherein the network address is an Internet address (Col. 5, lines 15-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akkaya and Oliphant with Brown so to provide to user a wide variety of access resources and service on the network.

Claims 13 – 16, Akkaya in view of Oliphant do not clearly disclose wherein the one or more data tags comprises pay-per-view information; wherein the pay-per-view information comprises program date information, program time information and program Channel information.

Brown discloses an electronic program guide action parameter (data tag) comprises pay-per-view information, wherein the pay-per-view information comprises program date information, program time information and program Channel information (Col. 18, lines 30-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Akkaya and Oliphant with Brown so to provide to user enough detail of information regarding a PPV program.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is 703-308-7372. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht
12/06/2004

A handwritten signature in black ink, appearing to read 'Hai Tran', written over two horizontal lines.

**HAITRAN
PATENT EXAMINER**